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OCT 14 2003

IN THE MATTER OF ILEC UNBUNDLING
OBLIGATIONS AS A RESULT OF THE
FEDERAL TRIENNIAL REVIEW ORDER

Docket No. T-00000A-03-0369

STAFF REQUEST FOR A PROCEDURAL ORDER

On August 21, 2003, the Federal Communications Commission ("FCC") released its Triennial Review Order¹ in which it once again examined the obligations of incumbent local exchange carriers ("ILECs") under Section 251(c)(3) to make elements of their networks available on an unbundled basis to new entrants at cost-based rates. The Order delegates certain responsibilities to state commissions to undertake a more granular analysis in determining whether "impairment" or "no impairment" exists with regard to a particular unbundled network in a geographic area, location or route.

On October 1, 2003, the Arizona Corporation Commission ("ACC" or "Commission") issued a Procedural Order commencing the 90 day phase of this case. The 90 day phase of this case was commenced to review any evidence presented to the state commission by CLECs which rebuts the national presumption established by the FCC that ILECs do not need to provide unbundled switching to CLECs serving enterprise market customers using DS-1 and higher speed loops. The 90 day phase of the case is so named because a state is required to petition the FCC within 90 days if it intends to rebut the national presumption of no impairment in a particular market. The Hearing Division

¹ In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, et. al., CC Docket No. 01-338, et. al., Report and Order and Order on Remand and Further Notice of proposed Rulemaking, (Rel. Aug. 21, 2003).

1 established a deadline of October 10, 2003, for any carrier to file evidence in support of a finding of
2 impairment for CLECs serving enterprise customers using high-capacity loops (DS-1 and higher
3 capacity) without access to the local circuit switching UNE.

4 Staff respectfully requests that the Hearing Division now issue a Procedural Order
5 commencing the 9 month² phase of this proceeding. The 9 month phase of this case encompasses the
6 following three issues: 1) whether competitive carriers would be impaired without the availability of
7 the local switching UNE for the mass market or residential customers, 2) whether carriers would be
8 impaired without unbundled loops for the enterprise market, and, 3) whether carriers would be
9 impaired without unbundled dedicated transport on a particular route.

10 The FCC found that on a national basis, CLECs are impaired without access to unbundled
11 local switching for mass market customers. The FCC's finding is subject to more granular review by
12 the states pursuant to FCC-defined triggers and other operational and economic criteria. The states
13 need only undertake this granular review for geographic areas identified by the ILEC in which it
14 intends to rebut the national impairment finding. Other responsibilities delegated to state
15 commissions as part of their granular review include distinguishing among markets where different
16 findings of impairment are likely and implementing a batch hot cut process to permit hot cuts in
17 sufficient volumes that are likely to occur in the mass market.

18 For enterprise loops, the FCC found impairment on a nationwide basis for DS1, DS3 and dark
19 fiber loops. The FCC delegated to state commissions the authority to de-list enterprise loops on a
20 customer-specific basis if certain triggers are satisfied.

21 Finally, for dedicated transport, the FCC found impairment on a nationwide basis for DS1,
22 DS3 and dark fiber transport. However, the FCC once again delegated to state commission the
23 authority to de-list dedicated transport of a certain capacity on a route-specific basis if certain triggers
24 are satisfied.

25 To commence the 9 month phase of this case, Staff believes that it will be necessary for
26 Qwest and other ILECs to first identify the geographic areas, routes and customer locations in which
27

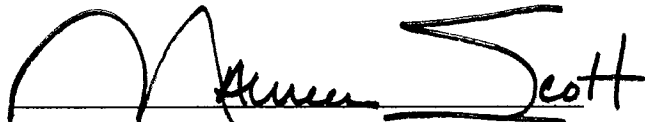
28 ² Under the FCC's Triennial Review Order, states are required to conclude any mass market local circuit switching, enterprise loop and
dedicated transport reviews in 9 months. The 9 month period ends on July 2, 2004.

1 they intend to rebut the national impairment presumption. Discovery can then be tailored to the
2 geographic areas, routes and customer locations identified. Parties should also be requested to file
3 comment by October 17, 2003 on the NARUC TRIP Task Force proposed discovery template, the
4 Qwest proposed discovery template and discovery template on the Pennsylvania Commission's
5 website at <http://puc.paonline.com/PcDocs/431201.doc>.

6 Staff has attached a proposed procedural schedule for the 9-month phase of this case which
7 includes two weeks of hearings and would allow a Commission Decision to be entered by June 24,
8 2004.

9 Staff respectfully requests that a procedural conference be scheduled for the week of October
10 20, 2003, to discuss the proposed schedule, discovery, a protective order and any other issues the
11 parties deem relevant.

12 RESPECTFULLY SUBMITTED this 10th day of October, 2003

13
14 

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19 The original and thirteen (13) copies
20 of the foregoing were filed this 26th 10th
21 day of ~~September~~ October, 2003 with:

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**STAFF'S PROPOSED PROCEDURAL SCHEDULE
FOR THE 9-MONTH PHASE**

Procedural Conference	WEEK OF OCT 20
Procedural schedule adopted	OCTOBER 24
ILEC identifies geographic areas, routes, and customer locations in which it intends to rebut impairment presumptions	OCTOBER 31
ILECs & Interveners begin collaborating on batch hot cut process & ILEC OSS support for Line Splitting*	IMMEDIATELY
Filing by ILECs to "frame" scope of case**	NOVEMBER 13
Comments by intervenors on ILECs' proposed market definition	NOVEMBER 24
Direct Testimony by Intervenor & ILECs	DECEMBER 15
Direct Testimony by Staff	JANUARY 30
ILECs file final report on the batch hot cut process and line splitting including identification of any impasse issues	JANUARY 30
Rebuttal Testimony by Intervenor & ILECs	FEBRUARY 16
Optional Rebuttal Testimony by Staff	MARCH 2 & 4
2-Week Hearings	MARCH 8-12 & 22-26
Initial Hearing Briefs	APRIL 16
Reply Briefs	APRIL 30
ALJ's Recommended Decision	JUNE 1
Exceptions	JUNE 11
Commission Decision	JUNE 24 and 25

*ILECs shall file status reports at the end of each month

**ILECs' framing filings are to provide information and evidence to date that support their positions on:

The locations, if any, in the state where the ILEC challenges FCC finding of impairment regarding high capacity loops and dedicated transport, including specific locations and routes

The locations (including the ILEC's proposed definition of the associated markets), if any, in the state where ILEC:

(a) challenges the FCC's finding of impairment with respect to Mass Market Switches, or

(b) contends the FCC's "triggers" are satisfied with respect to Mass Market Switches

The procedure by which the ILEC proposes to develop a low cost, batch hot cut process

Please Note: Final Order or Decision needs to be issued by July 2, 2004, 9-months from the effective date of the TRO (October 2, 2003).

Initial round of discovery responses will be due in 25 calendar days.